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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1935

Nos. 287, 288, 289, 290 and 316

No. 287 CAMILLE V. TREIGLE, Appellant, v. ACME HOMESTEAD ASSOCIATION, Appellee.

No. 288 CAMILLE V. TREIGLE, Appellant, v. THRIFT HOMESTEAD ASSOCIATION, Appellee.

No. 289 TREIGLE SASH FACTORY, INC., Appellant, v. CONSERVATIVE HOMESTEAD ASSOCIATION, Appellee.

No. 290 TREIGLE SASH FACTORY, INC., Appellant, v. UNION HOMESTEAD ASSOCIATION, Appellee.

No. 316 JOSEPH MITCHELL, Appellant, v. CONSERVATIVE HOMESTEAD ASSOCIATION, Appellee.

Appeals from the Supreme Court of Louisiana.

BRIEF ON BEHALF OF APPELLEES.

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SUBJECT INDEX

Page

PRELIMINARY STATEMENT 1

STATEMENT OF POINTS 2

BUILDING AND LOAN STATISTICS 4

Point 1. Building and Loan Associations are quasi-public, and absolutely subject to control by the State under its paramount police power 6

Point 2. Building and loan shareholders cannot complain if their rights are altered by the subsequent exercise of the police power of the State. One whose rights are subject to State control cannot remove them from the power of the State by making them the subject of a stock subscription 10

Point 3. The changes in shareholders' rights effected by Louisiana Act 140 of 1932 are neither discriminatory nor capricious, have a legitimate relation to a proper end, and constitute a proper exercise of the police power of the State over building and loan associations 21

Point 4. In Louisiana, the rights of building and loan shareholders depend wholly on the enabling statute and are not in any degree contractual 32

The principal cases relied upon by opponents are analyzed, for the purpose of showing that these cases bear no relation to, and are without value as precedents in, the present controversy 36

INDEX OF CASES AND STATUTES.

Cases:	Page
Atlantic Coast Line v. Goldsboro, 232 U. S. 549	15
Abie State Bank v. Weaver, 282 U. S. 76	34
Bank of Oxford v. Love, 250 U. S. 603, 606	9
Bloch v. Hirsch, 256 U. S. 135, 155	9
Bedford v. Eastern Building and Loan Association, 181 U. S. 227	37, 39
Cotonio, State ex rel. v. Italo-American Homestead Association, 177 La. 766, 771, 772	7
C., B. & Q. R. R. Co. v. McGuire, 219 U. S. 549	24
Conservative Homestead Association v. Dreyfous, 175 La. 404	33, 39
Crane v. Hahlo, 258 U. S. 142, 146	35
Coombs v. Getts, 285 U. S. 434	37, 38
Central Transportation Co. v. Pullman C. Co., 139 U. S. 24	8
D'Anna, Succession of, 6 La. App. 142, 143	6
Dartmouth College v. Woodward, 4 Wheat. 518, 668-672	7
Divide County v. Baird, 55 North Dakota, 45, 50	9
Dillingham v. McLaughlin, 264 U. S. 370	15
Doty v. Love, No. 556, October Term 1934, U. S. Supreme Court	38
Engle v. O'Malley, 219 U. S. 128, 136	9
Erie R. Co. v. Public Utility Commissioners, 89 N. J. Law 57	15
Ettor v. Tacoma, 228 U. S. 148	37, 38
Eubank v. Richmond, 226 U. S. 137	40
First National Bank v. Louisiana Tax Commission, 175 La. 119, 131; 289 U. S. 60	6
Fornataro v. Atlantic Coast Building and Loan Association, 10 N. J. Misc. 1248	11
Fitzgerald v. State Mutual Building and Loan Association, 76 N. J. Eq. 137	35
German Alliance Co. v. Lewis, 233 U. S. 389, 414	9
Guilford Water Co.'s Service Rate, 118 Maine 367	15
Green v. Frazier, 253 U. S. 233	24
Garrison v. City of New York, 21 Wall. 196	35
Holland v. Nakdimen, 177 Arkansas 920	14
Hodge v. Cincinnati, 284 U. S. 335	24
Harding Realty Co. v. Blanchard, 179 La. 430	26

INDEX OF CASES AND STATUTES—(Continued)

Cases:	Page
Hopkins, Reliance and Northern Building and Loan Associations cases	7
Liggett Co. v. Lee, 288 U. S. 517, 548, et seq.	7
Louisville Gas & Electric Co. v. Coleman, 277 U. S. 32, 40	7, 8, 33
Louisville Gas & Electric Co v. Shanks, 213 Ky. 762	8
Louisville and Nashville Co. v. Mottley, 219 U. S. 467	16
Louisiana v. New Orleans, 109 U. S. 285	35
Mayre v. Pierson, 171 La. 1077, 1084	6
Middendorf v. Goodale, 213 Ky. 762	8
McConville v. Fort Pierce Bank and Trust Co., 101 Fla. 727	9
Munn v. Illinois, 94 U. S. 113, 124	9
Manigault v. Springs, 199 U. S. 473, 480	15
McLean v. Arkansas, 211 U. S. 539	24
Merchants Bank v. Pennsylvania, 167 U. S. 461, 462	33
Massillion Savings and Loan Association case, 110 Ohio State 320	19
Nolle State Bank v. Haskell, 219 U. S. 104, 111	9, 14
Opinion of the Justices, 278 Mass. 607, 611, and 278 Mass. 613, 616	17
Orlando v. Reliance Homestead Association, 174 La. 980	26, 36
People v. Budd, 143 U. S. 517, 534	9
Price v. Illinois, 238 U. S. 446	24
Purity Extract & Tonic Co. v. Lynch, 226 U. S. 192	24
People ex rel. Rodgers v. Colér, 166 N. Y. 1	34
Publicker v. Pottash Bros. Building and Loan Association, (Pa.), 159 Atl. 58	34
Pacific Mail S. S. Co. v. Joliffe, 69 U. S. 450	37, 39
Succession of D'Anna, 6 La. App. 142, 143	6
State ex rel. Cotonio v. Italo-American Homestead Association, 177 La. 766, 771	7, 28
State v. Court of Common Pleas, 124 Ohio State 269, 275	9
Spring Valley Water Works v. Schottler, 110 U. S. 347, 354	9
Sutter Butte Canal Co. v. Railroad Commission, 279 U. S. 125	15
State ex rel. Crolle v. Massillion Savings and Loan Association, 110 Ohio State 320	19

INDEX OF CASES AND STATUTES—(Continued)

Cases:	Page
Stephenson v. Binford, 287 U. S. 251	24
Sproler v. Binford, 286 U. S. 374	24
State ex rel. Orlando v. Reliance Homestead Association, 174 La. 980	26, 36
Trascher v. Mohawk Homestead Association, 178 La. 213, 215	7
Thirteenth Ward B. & L. Association v. Weissberg, 115 N. J. Eq. 487	35
Thomas v. West Jersey R. Co., 101 U. S. 71	7
Union Savings and Investment Co. v. District Court, 44 Utah 397, 404	9
Union Dry Goods Co. v. Georgia Public Service, 248 U. S. 372	15
Van Dycke v. Geary, 244 U. S. 39, 47	9
Williams v. Baltimore, 289 U. S. 36	24
Washington ex rel. Seattle Trust Co. v. Roberge, 278 U. S. 116	40

Statutes:	Appendix Page No.
Act 151 of 1888	5
Act 140 of 1932:	
Section 36	9
" 37	10
" 38	10
" 80	6
" 81	5
Act 120 of 1902, Section 7	8
Act 280 of 1916, Section 7	8
Act No. 44, Second Extraordinary Session of 1934	7

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BRIEF ON BEHALF OF APPELLEES.

PRELIMINARY STATEMENT.

The present petitioner and those in the related suits attack certain sections (53, 54, 55 and 56) of Act 140 of 1932 of the Louisiana Building and Loan Code, on the ground of impairment of contract and deprivation of property without due process of law.

They claim that the Louisiana building and loan statute of 1902 as amended in 1916, under and in accord-

ance with which they possess their shares, has been substantially changed by the Louisiana Legislature, involving unconstitutional contract impairment and lack of due process.

STATEMENT OF POINTS.

The defendant building and loan associations (generally known as homesteads, in Louisiana), admit that substantial changes have been made in the prerogatives of building and loan shareholders but justify these modifications on the following grounds:

1. Building and loan associations, as quasi-public institutions, like savings banks and insurance companies, are subject to the complete control and regulation of the Legislature in the exercise of the police power. The relationship between building and loan associations and their members is entered into subject to the future exercise of the police power of the State by the enactment of wholesome and reasonable laws for the common good.

2. From the fact that the business of building and loan associations is of a public character and therefore subject to regulation and control by the Legislature in the exercise of the police power, it must follow that the authority of the Legislature in that respect cannot be frustrated or forestalled by the making of private contracts with building and loan associations. Accordingly, individuals who acquire shares in building and loan associations know in advance, or are charged with knowledge, that their rights which result from their membership in such associations are conferred and controlled by statute and are therefore subject to impairment at any time by an Act of the Legislature.

3. The changes made by Act 140 of 1932 constituted a reasonable and proper exercise of the police power. In any event, the legislation here under consideration is not arbitrary or capricious, but bears a reasonable relation to a legitimate end. The Legislature is entitled to its own judgment in exercising control over quasi-public corporations and their shareholders, and Courts are not concerned with the wisdom of such legislation.

4. The relationship between a building and loan shareholder and his association is not a conventional or consensual agreement, but is a status created by law, in respect of a membership in a corporation affected with a public interest, and which can be changed at the will of the Legislature. This status, thus created by, and existing only because of, a statute, is at all times within the control of the Legislature, and may at any time be altered by the Act of the Legislature in the exercise of the police power.

The right of withdrawal from such an association cannot survive the statute upon which it is founded, but must fall with it, since its existence depends upon the enabling statute, and it can have no independent existence arising from the consent of the parties or the meeting of the minds.

The Legislature, therefore, may change the method of withdrawing funds from a building and loan association. It is an exercise of the police power in respect of an institution, quasi-public in character, profoundly affected with a public interest, and subject to regulation in the discretion of the Legislature.

BUILDING AND LOAN STATISTICS.

The importance and magnitude of the interests represented by the building and loan associations of this country should not be overlooked, and mention should also be made of the fact that these associations, inaugurated in the United States more than one hundred years ago, have constituted the most wide-spread influence for thrift and home-ownership in this country. As appears from the statistics in the answer of the Acme Homestead Association in this cause (R. pages 13 and 14), in Louisiana, at the close of the year 1930, (which was the last available date at the time when this case and the other related cases were put at issue in the lower court) there were 102 building and loan associations with a membership of 200,930, and assets totalling $182,358,292.00. In the United States, including Hawaii, the total number of building and loan associations was 11,777, with a total membership of 12,350,928, and total assets of $8,828,611,925.00. The building and loan associations in Louisiana, at the close of the year 1930, owned mortgage loans totalling $161,525,736.00, invested almost exclusively in homes of thrifty families, and representing, along with savings banks, the greatest factor for the promotion of thrift and good citizenship in the State.

In his report to the 1934 Convention of the United States Building and Loan League, held in the City of New Orleans in 1934, H. F. Cellarius, Secretary-Treasurer, furnished the following compilations, all based on data furnished for 1933 by the respective State Supervising Departments, to-wit: **Table 1,** Summary Table of Number of Building and Loan Associations, Total Membership, and

Total Assets of Associations, by States, for the year 1933; and **Table 2,** Mortgage Investments of Building and Loan Associations for the years 1932-1933.

These Tables are reproduced in the Appendix, Page 1.

The figures, compiled as stated from the official reports of the State Supervisors of Building and Loan Associations in various States, are given in detail in the Building and Loan Annals for the year 1934, published by the United States Building and Loan League, 104 South Michigan Avenue, Chicago, Morton Bodfish, Executive Vice-President. The figures for the year 1934, and to be published in 1935, are not as yet available; they do not materially differ from the figures for the year 1933, and published in 1934, and above reproduced.

The 1933 figures show that 9,224,105 individuals were interested in 10,727 associations and that their total investment amounted to $6,977,531,676—this surely representing a business of tremendous importance and justifying the public interest which the Legislature in every state has made the basis of the widespread regulation and control of these Associations.

Point 1.

Building and loan associations, like banks and insurance companies, are affected with a public interest and are subject to the police power. Building and loan associations, being subject to the police power, may be regulated and controlled to the minutest detail and in every respect, by legislative action.

There is no doubt of the fact that building and loan associations are quasi-public institutions, subject to regulation and control. Appellants concede this. (See opponents' brief, p. 29).

This Court has so held. See *Hopkins, Reliance and Northern Building and Loan Association cases, Nos. 55, 56 and 57*, October term, 1935, decided December 9, 1935.

The public character of these institutions has been definitely settled in Louisiana for nearly fifty years.

Under Act 151 of 1888 of Louisiana (see Appendix, p. 5) these associations are declared to be "corporations for the promotion of public utility and advantage". And this statute (Act 151 of 1888) was recognized as being in full force and effect, in Section 81 of the Louisiana Homestead and Building and Loan Statute (Act 140 of 1932). See Appendix, p. 5.

The quasi-public character of these institutions has been uniformly stated and applied in all the decisions in Louisiana. *First National Bank v. Louisiana Tax Commission, 175 La. 119, 131.* (Same case, *289 U. S. 60*); *Mayre v. Pierson, 171 La. 1077, 1084; Succession of D'Anna,*

6 La. App. 142, 143; State ex rel. Cotonio v. Italo-American Homestead Association, 177 La. 766, 771, 772; Trascher v. Mohawk Homestead Association, 178 La. 213, 215.

Building and loan associations in Louisiana have been placed under the supervision of a constitutional officer,—the State Bank Commissioner and Supervisor of Homestead and Building and Loan Associations (Section 18, Article 6, Louisiana Constitution, 1921; see Appendix, p. 6).

The public character of these institutions was emphasized in the decision of this Court, of December 9, 1935, in the *Hopkins, Reliance and Northern Building and Loan Association cases, supra:*

> "A corporation is a juristic person organized by government to accomplish certain ends, which may be public or quasi-public, though for other purposes of classification the corporation is described as private. Dartmouth College v. Woodward, 4 Wheat. 518, 668-672. Cf. the statutes and decisions collected by Brandeis, J. in Liggett Co. v. Lee, 288 U. S. 517, 548, et seq. This is true of building and loan associations in Wisconsin and in other states. They have been given corporate capacity in the belief that their creation will advance the common weal. The state, which brings them into being, has an interest in preserving their existence, for only thus can they attain the ends of their creation. They are more than business corporations. **They have been organized and nurtured as quasi-public instruments.** Louisville Gas & Electric Co. v. Coleman, supra. They may not divest themselves of a franchise when once it is accepted if the local statutes or decisions command them to retain it. See opinion of the court below, and cf. Thomas v.

West Jersey R. Co., 101 U. S. 71; Central Transportation Co. v. Pullman's Car Co., 139 U. S. 24. **How they shall be formed, how maintained and supervised, and how and when dissolved, are matters of governmental policy, * * *."**

In *Louisville Gas and Electric Company v. Coleman, 277 U. S. 32, 40,* this Court, in passing upon a Kentucky statute providing for a tax to be paid in connection with the recordation of mortgages, condemned the statute in respect of the attempted classification depending upon the time of maturity of the obligation, but approved the exemption provided in respect of mortgages recorded in favor of building and loan associations; and said:

> "The exemption of building and loan associations from the operation of the tax is a different matter. The equal protection clause of the 14th Amendment does not preclude a state in imposing taxes from making exemptions. . . . It may exempt the property of churches, charitable institutions, and the like; and it does not admit of fair doubt that, under the circumstances disclosed by the opinion of the court below (Louisville Gas and Electric Co. v. Shanks, 213 Ky. 762) in the Middendorf case (Middendorf v. Goodale, 202 Ky. 118), it has lawfully exempted building and loan associations. That court points out that a building and loan association under the Kentucky statutes must receive payment from members only and make loans to members only, in pursuance of a plan set forth. Money accumulated is to be loaned to members according to a rule of priority. **The essential principle of such an association is mutuality.** The purpose of the statute, the court below says, was **to provide the members of the associations with the means of borrowing money for the acquisition of homes, in recognition of the duty of the state to encourage**

> **the acquisition of homes by its citizens.** Such associations are also placed by the state statute in a separate class for purposes of ad valorem taxation. It is made clear by the lower court that the **purpose of the exemption was to enable these associations, by relieving them of a burden, more completely to carry out the quasi public purpose which** the legislature designed in providing for their creation. This exemption, therefore, must be upheld. . . ."

See also *Union Savings and Investment Co. v. District Court, 44 Utah 397, 404; State v. Court of Common Pleas, 124 Ohio State 269, 275; McConville v. Fort Pierce Bank and Trust Co., 101 Fla. 727; Engel v. O'Malley, 219 U. S. 128, 136; Bank of Oxford v. Love, 250 U. S. 603, 606; Divide County v. Baird, 55 North Dakota 45, 50; Munn v. Illinois, 94 U. S. 113, 124; Spring Valley Water Works v. Schottler, 110 U. S. 347, 354; People v. Budd, 143 U. S. 517, 534; Noble State Bank v. Haskell, 219 U. S. 104, 111; German Alliance Co. v. Lewis, 233 U. S. 389, 414; Van Dycke v. Geary, 244 U. S. 39, 47; Block v. Hirsch, 256 U. S. 135, 155.*

Point 2.

Since building and loan associations, like banks and insurance companies, are quasi-public institutions, the rights of their shareholders may be altered and modified in the course of the control of these Associations by the State in the exercise of its police power; and **for many years it has accordingly been the settled law of this country, that the Legislature in the public interest may enact statutes regulating banks, building and loan associations and insurance companies, in the interest of the public and of the general welfare of the State, although incidentally the private rights of said associations and of their members must be correspondingly altered and modified.**

Such changes are in no manner a violation of the constitutional rights of the members, for the reason that it is the settled doctrine in the constitutional law of this country, that the exercise of the police power, within its proper sphere, cannot be impeded by constitutional guarantees; and that, when the Legislature has undertaken to regulate a business affected with a public interest, this exercise by the State of its basic police power in the interest of the common weal can not be arrested by the claim of individual contract or property rights. This basic principle of Constitutional law, which is trite in respect of banks, public utilities, carriers and insurance companies, equally applies to building and loan associations, which are to an equal extent quasi-public institutions.

And the cases definitely hold that, when private individuals acquire rights, by contract or otherwise, in such quasi-public institutions, subject to legislative regulation

and control, such individuals can not claim any constitutional privileges against the impairment of their relationships or their contracts by the subsequent enactment of regulatory legislation affecting such institutions through the proper exercise of the police power. And this doctrine is inevitable and inherent in the nature of these institutions and necessarily results from their character. For it cannot be denied that if their contracts or shareholder relationships were free from control or interference by the Legislature, the entire business could be put beyond the control of government regulation, by the simple expedient of making creditor or shareholder contracts.

A recent important *nisi prius* case in New Jersey, now final, presents the identical question arising in the present litigation, in relation to the **right of the State, by a subsequent enactment, to alter the withdrawal rights of members in a building and loan association.**

The New Jersey court held, that the matter of withdrawals was always within the control of the Legislature under the police power, and that the withdrawal rights of a shareholder, acquired under a pre-existing statute, could be altered in the discretion of the Legislature, in the course of the regulation of the quasi-public and government controlled institution, without the impairment of any constitutional rights.

Fornataro v. Atlantic Coast Building and Loan Association (Supreme Court of New Jersey), 10 N. J., Misc., 1248:

"Plaintiffs became members of defendant association prior to the building loan act as amended

in 1932 and during the time that building and loan associations were regulated by the Act of 1925.

It will also be noticed that the withdrawal notices were given prior to the time when the amendment of 1932 became effective. . . .

Plaintiffs contend that under the Act of 1925, they had certain vested rights as withdrawing members and that those rights may not be taken away by a retrospective construction of the 1932 amendment.

Plaintiffs contend that to so construe the amendment would violate their rights under Article IV, Section 7, paragraph 3, of the Constitution of this State and also Article 1, Section 10 of the Constitution of the United States.

What were plaintiff's contractual rights?

Any right of withdrawal they had was merely a privilege granted to them by the legislature and such a privilege was in fact granted.

That plaintiff's privilege of withdrawal was conferred by statute is apparent. . . .

From that time on, every purchaser of shares in a building and loan association was given notice that he had a right of withdrawal and that the Legislature had fixed the manner of payment and that while building and loan associations could make the same provisions by its by-laws, there was no power so to do if the provisions of the by-laws limited or attempted to transcend those of the Legislative Acts.

The result was that when plaintiffs became shareholders they knew that the Legislature had legislated as to withdrawals and that it had reserved the right and power to further legislate and that their rights with respect to withdrawals were derived from Statute and not by way of contract arising out of by-law regulations. . . .

It seems to me that the Legislative intent is apparent and that no vested rights of plaintiffs are violated by giving to the 1932 amendment a retrospective construction.

What the Legislature did by the Amendment of 1932, it seems to me, was to bolster up the ultimate result, i. e., assured, more nearly, that there would be an ultimate payment of withdrawals without jeopardizing the very life of the association and thereby secured to the member the payment of his withdrawal in such manner that the payment thereof might not destroy mutuality and equal participation in assets and losses. . . .

> 'These decisions, few from many, to like effect, should suffice to satisfy the most skeptical or belated investigator that the right of private contract must yield to the exigencies of the public welfare when determined in an appropriate manner by the authority of the state.'

The court will take judicial notice of the stress of the financial situation existing at the time the amendment of 1932 was acted upon and with that crisis in the financial World and Nation in view, there can be no doubt that in the exercise of its reserved power, the Legislature was acting for the welfare of all investors in building and loan. Many of our financial institutions had closed their doors, a panic stricken people had created runs on banks and these institutions had not been able to continue in business, not because, in many instances, they did not have sufficient assets to pay, but because their assets were frozen. Fortunately, building and loan associations had, in the main, weathered the storm, but, even a limited knowledge of the character of their investments, the great number of foreclosures and consequent taking over of real estate, makes it apparent that they could not meet all the demands of this panicky public if

they were to be compelled to continue under the Act of 1925; so that, in the enactment of the 1932 Amendment, **the Legislature came well within the rule as laid down by Mr. Justice Holmes in Noble State Bank v. Haskell, 219 U. S. 104, wherein he said that**

'Police power extends to all great public needs.' "

In the case of *Holland v. Nakdimen*, the Legislature of Arkansas, in the exercise of its right to control the relationship between banks and their depositors, enacted a statute prescribing a maximum rate of interest to be allowed on deposits, and this was held to be a proper exercise of the power to regulate these quasi-public institutions. And, as it is manifest that no contract entered into in advance can control the Legislature in the exercise of its regulatory rights over such institutions, the decision holds that this statute not only operated to control future deposits, but applied to a previously existing contract by which the bank had agreed to allow a higher rate of interest to one of its depositors.

Holland v. Nakdimen, 177 Arkansas 920:

"Finally, it is insisted that the act under consideration went into effect March 7, 1927, and that in so far as the plaintiff, Mrs. C. C. Scott, is concerned, it would violate a contract which the bank had previously made with her to pay her 4½ per cent. on time deposits until June 30, 1927. WHEN MRS. SCOTT AND THE BANK MADE THIS CONTRACT, THEY KNEW THAT THE REGULATION AND CONTROL OF BANKS CAME UNDER THE INTERNAL POLICE POWER OF THE STATE, AND THAT THIS CONTRACT

MUST BE SUBJECT TO ALL LAWS THEN IN FORCE OR WHICH MIGHT THEREAFTER BE PASSED."

Such a decision is direct authority for the proposition, that no shareholder in a building and loan association can complain of a statute which affects his rights by providing, by the enactment by the Legislature, under the police power, of a new statutory rule, for a new system of withdrawals from such association.

The Supreme Court of Louisiana, in deciding the present cases, applied exactly the same principle.

See *Manigault v. Springs, 199 U. S. 473, 480; Union Dry Goods Co. v. Georgia Public Service, 248 U. S. 372, 377; Atlantic Coast Line v. Goldsboro, 232 U. S. 549; Sutter Butte Canal Co. v. Railroad Commission, 279 U. S. 125; Guilford Water Co.'s Services Rate, 118 Maine 367; Erie R. Co. v. Public Utility Commissioners, 89 N. J. Law 57.*

In *Dillingham v. McLaughlin, 264 U. S. 370,* some individuals operating as a common law trust conducted a home building, thrift and savings business, and had received deposits under certificates which constituted valid and legal contracts under the laws of the State of New York. By a subsequent enactment, the Legislature provided that such businesses must be incorporated and classified with banks and building and loan associations, and must be subjected to the regulations applicable to such businesses. And on a consideration of this matter this Court specifically held, that this new enactment would apply to all existing contracts in the existing business, since the new statute was an

exercise by the Legislature of the police power in a field undoubtedly within its proper sphere; it being the holding of this Court, in further confirmation of the settled law on that subject, that no constitutional guarantee could prevail to arrest the operation of a regulatory statute in that quasi-banking business, although the pre-existing rights of contracting parties would, of necessity, be substantially affected and might, indeed, be wholly destroyed.

As to the existing contracts the Court said:

> **"The operation of reasonable laws for the protection of the public cannot be headed off by making contracts reaching into the future."**

In the leading case, *Louisville and Nashville v. Mottley, 219 U. S. 467*, the Court held that a contract valid when made (in 1871) for the giving of a free pass by an interstate carrier, in consideration of a release of a claim for damages, could not be enforced after Congress had passed the Act of June 29, 1906.

The Court said:

> "It may be suggested that a refusal to enforce the agreement of 1871 will operate as a great hardship upon the defendants in error. **But that consideration cannot control the determination of this controversy. . . . The Court cannot mold a statute to meet its views of justice in a particular case.** . . . It is said, however, that, as the contract of Mottley and wife was originally valid, it cannot be supposed that Congress intended by the Act of 1906 to annul or prevent its performance. . . . **Assuming that the agreement of 1871 was valid when made, could Congress, by any statute subsequently enacted, make its enforcement by suit impossible?**

> **. . . Contracts must be understood as made in reference to the possible exercise of the rightful authority of the government, and no obligation of a contract can extend to the defeat of legitimate government authority. These principles control the decision of the present question. The agreement between the railroad company and the Mottleys must necessarily be regarded as having been made subject to the possibility that, at some future time, Congress might so exert its whole constitutional power . . . as to render that agreement unenforceable or to impair its value. That the exercise of such power may be hampered or restricted to any extent by contracts previously made between individuals or corporations is inconceivable. . . . There can, in the nature of things, be no vested right in an existing law which precludes its change or repeal, nor vested right in the omission to legislate upon a particular subject-matter which exempts a contract from the effect of subsequent legislation** upon its subject-matter by competent legislative authority. . . . If the legislature had no power to alter its police laws when contracts would be affected, then the most important and valuable reforms might be precluded by the simple device of entering into contracts for the purpose. No doctrine to that effect would be even plausible, much less sound and tenable."

Two decisions of the Supreme Court of Massachusetts *(Opinions of the Justices, 278 Mass. 607, 611,* and *278 Mass. 613, 616)* decreed in a very carefully prepared opinion, that building and loan associations and banks must conform to a statute requiring them to become members of a Cooperative Central Bank and to centralize their reserve funds in this cooperative institution. Obviously, this measure affected substantially the status and rights of the shareholders in every institution in the State, as shareholders of

individual associations were compelled, to an extent, to pool their resources with all the other similar associations in Massachusetts; and this innovation was vigorously resisted as unconstitutional. But the Court held that the relations between savings banks and their depositors had been entered into subject to the future proper exercise of the police power by the enactment of laws for the common good and that the new statute compelling individual associations to pool a proportion of their separate and individual reserve funds, was valid although the rights of shareholders would be affected.

A very important case, in one of the most important building and loan states, was recently decided by the Supreme Court of Ohio. The Massillion Building and Loan Association had made a contract, under which it had given to certain brokers the exclusive right to sell to the public twenty thousand shares of the capital stock of said Association. The contract was an important one, involving more than Eighty Thousand Dollars in potential profit to the brokers. The contract was entirely beneficial to the Association also, which collected on each sale a net amount in excess of the par value of its shares. The contract, when made, was, in every respect, legal and binding under the laws of the State of Ohio.

The Banking Commissioner of Ohio, however, did not approve the policy underlying the sales of shares made under this contract. There was, however, no law to which resort could be had in order to prevent the Association and the brokers from going on with the execution of this contract. As a matter of fact, the contract had been to a sub-

stantial extent already executed, and, in every sense of the word, contract and property rights had vested in the parties, subject to the protection of all State and Federal constitutional guarantees.

At the suggestion and on the recommendation of the Banking Commissioner, the Legislature of Ohio enacted a law providing that all building and loan shares must be sold, by the associations respectively, directly to the public and "over the counter." This statute, in terms, was made retroactive, and all existing agreements in derogation thereof were declared to be illegal and null under the reserve police power and the right of the State of Ohio to control the operations and relationships of its building and loan associations. An excerpt from that decision is now quoted:

State ex rel. Crabbe, Atty. Gen., v. Massillion Savings & Loan Co., 110 Ohio St. 320:

> **" 'By virtue of its police power, the state may regulate building and loan associations. * * * In the exercise of this power, various statutes have been passed relating, among other things, to the incorporation of such societies, to their powers.'** etc., 9 Corpus Juris, 923. In this case the state seeks **to oust the building and loan company from its claimed right or franchise to sell its stock and memberships in contravention of the statute, after July 3, 1923.** It is not our purpose to decide what the effect of this contract may be as between the parties themselves, especially as it has been suggested in argument that this feature has been adjudicated in another case. We are not advised by the record to what extent the contract between the building and loan company and the finance company had been

executed by actual sales of stock and memberships prior to the filing of this petition in *quo warranto*. The petition merely asks **for an ouster in the future from the claimed privilege of selling the same in accordance with the agreement.** Therefore it is manifest that, while the **petition attacks the contract entered into prior to the effective date of the amended act, and asks the judgment of ouster from further proceedings under that contract,** it is not sought to impair a completed contractual obligation, but **to curtail a subsequent exercise of a franchise by preventing future sales.** Undoubtedly this association itself could not enter into such a contract after July 2, 1923, and, in our opinion, **it cannot foreclose the right of the state to exercise thereafter its police power by entering into such contract prior to the date of the amended act."**

Since building and loan associations are subject to regulation under the police power, their creditor—and shareholder—relationships are subject to control, as otherwise all power of State regulation and control would be frustrated by any pre-existing contracts, outstanding stock certificates, or other current undertakings, of said institutions. It is for that reason that the cases hold uniformly that the power of regulation or control over these institutions cannot be arrested or weakened or limited by the pre-existing contracts or shareholder relationships of these quasi-public corporations.

Accordingly, persons who make contracts with, or who subscribe to shares in building and loan associations are charged in advance with knowledge of the character of these institutions and of the regulatory rights of the Legislature in their behalf, and such shareholders cannot validly complain when the Legislature at a later date exercises its

right of control and regulation over them and effects structural and other changes which affect the pre-existing prerogatives and rights of these shareholders and members.

Opponents' argument seems to be that since they made an application for withdrawal, the Legislature must abrogate, so far as their applications were concerned, all power of regulation. In other words, opponents say that they had done all that had been expected of them, and that from that instant they enjoyed what they characterize as a vested right, free from the control of the Legislature under the police power. That proposition seems to answer itself.

When a business is subject to legislative control, it is at all times subject to that control.

Point 3.

The changes, of which opponents complain, are a valid exercise of the police power, not arbitrary or discriminatory, and in every respect valid and legal.

Plaintiffs complain principally of the following new provisions in the 1932 Louisiana Statute,—the change in the method and time of withdrawal, the discretionary control of directors as to the use of funds for dividends, the payment of dividends to continuing members although there are unpaid withdrawals.

Since building and loan associations are wholly subject to the police power, we have seen that the Legislature has the absolute power to control them and to legislate about them, provided only the new statutory provisions

have a substantial relation to a proper purpose, and are not capricious, arbitrary or discriminatory.

With the wisdom of such legislation and the soundness of the economic policy involved, the Courts are not concerned.

It must be noted that Act 140 of 1932 is definitely and absolutely an exercise by the State of its police power. The Louisiana Legislature so declared in unmistakable terms (See Section 80, Act 140 of 1932, in Appendix, p. 6).

It had developed in Louisiana as in many other States that the existing statutes for paying withdrawals in order of application worked unsatisfactorily.

In the case now before the Court, the Supreme Court of Louisiana has fully stated the conditions, of which the Court took judicial notice, which made reasonable and proper the enactment of Act 140 of 1932.

> "The purpose of the Act of 1932 was not to favor any member or class of members to the prejudice of another member or class of members of a building and loan association, but to benefit indiscriminately all members of such associations and the general public, by saving these institutions from dissolution, which they were menaced with, by the financial depression. During normal times when the Act of 1916 was adopted, and until the financial panic set in, building and loan associations received substantial sums on their stock subscriptions and made prompt collections of interest and principal on their loans, and were able to pay withdrawals

promptly, if not on demand. But when the depression came on, with its resultant condition of unemployment and the consequent need of money for household expenses, there were no funds available for investment in the shares of building and loan associations, and very little for the payment of debts due to them, or for the payment of interest on the loans they had made. The demands for withdrawals became overwhelming, and whenever a large claim came to the top of the list it blocked indefinitely the small claims of those who were more in need of their money. The result was, by the time the Act of 1932 was drafted and submitted to the Legislature by the State Bank Commissioner, that the business of building and loan associations was stagnant, not only in Louisiana but throughout the whole United States." (Record 287, p. 36).

It cannot be said that, in the face of this statement of the Supreme Court of Louisiana, there was no basis on which the Legislature was authorized to act. Surely, these facts being known to the members of the Louisiana Legislature, it cannot be contended that the statute which they passed "sounded in folly", and that there was no reasonable basis on which they could act. Nor, under the circumstances, can it be urged that the legislation now under consideration had no reasonable relation to the end to be attained.

It must be remembered that we are here dealing with a matter entirely within the control of the Legislature and that the judgment of our opponents or of the Court cannot be substituted for that of the Legislature, if there was and is any conceivable factual basis which can be fairly suggested to justify the measures adopted by the Legislature.

The jurisprudence of this Court, particularly in recent cases, has emphasized the fundamental principle which recognizes the right of the Legislature, in the exercise of its power to legislate in matters subject to its control, to enact such measures and adopt such means as may be in its opinion appropriate and desirable, without interference on any ground or for any reason by the Courts, whenever the means or the methods adopted by the Legislature are not arbitrary or discriminatory and bear a logical relation to the facts which the Legislature had before it or could conceivably have had before it.

In construing statutes, the authority of this Court is exhausted when it has ascertained that the Legislature had power to legislate in matters of police and it is not concerned with the policy of the legislation. Ascertaining the power to legislate, which is apparent in the case, unless the statute appears clearly to be arbitrary or unreasonable and without substantial relation to its object, the judgment of the Legislature is final and the statute must be sustained. *Williams v. Baltimore, 289 U. S. 36; Hodge v. Cincinnati, 284 U. S. 335; Price v. Illinois, 238 U. S. 446; McLean v. Arkansas, 211 U. S. 539; Purity Extract & Tonic Co. v. Lynch, 226 U. S. 192; Green v. Frazier, 253 U. S. 233; C. B. & Q. R. R. Co. v. McGuire, 219 U. S. 549; Stephenson v. Binford, 287 U. S. 251; Sproler v. Binford, 286 U. S. 374.*

That the legislation changing the form of withdrawal was not arbitrary and unreasonable, but was considered to be appropriate and necessary to further the interests of building and loan and to meet existing conditions,

is further evidenced by an inspection of similar legislation cited in the appendix to this brief, p. 11, passed by many States of the Union from 1930 to 1935. This legislation from other States clearly indicates that there is nothing capricious or arbitrary in the provisions of Act 140 of 1932, but that this statute approaches, if indeed it does not exactly reflect, the norm of legislation considered to be appropriate as a solvent for current building and loan needs everywhere. The evidence or his point is ample to sustain the validity of the Louisiana Statute as a reasonable and proper exercise of the police power.

The Legislature of Louisiana, like the Legislature in many other States, naturally attempted to ameliorate conditions resulting from the cluttering of the withdrawal lists and which prevented a fair payment of withdrawals on applications, by providing for a distribution of the available funds to as many persons as possible, from time to time. Certainly, the provision which distributes on a fair basis the available funds for withdrawal, must have the effect of reassuring and of assisting a larger number of applicants and therefore of improving general business conditions, than if the requests were met only in the strict order of application as provided by the old law, and no applicant could receive anything until the first applicant on the list had been paid in full.

Such a provision is a reasonable exercise of the power of the Legislature, bears a reasonable relation to the end to be attained, is not capricious, arbitrary or discriminatory, and is therefore a proper and legitimate exercise of the police power.

The new provision for the payment of withdrawals will certainly make it easier for all the shareholders who need their money, to get without delay a certain proportion of their investments. To that extent, the new legislation is most reasonable, since great distress has always resulted whenever there was difficulty or delay in the reimbursement of these investments. The enactment of similar legislation in many states, by Legislatures solicitous for the rights of shareholders and to "liberalize" the withdrawal list, not only is beneficial legislation directed to meet and solve a definite need and problem, but has the effect, by spreading the cash distribution, of further mutualizing these associations, which by their nature and genius are everywhere essentially mutual and cooperative.

The appellants further object to the fact that by the Act of 1932 it is no longer required that one half of the net receipts should be segregated to pay withdrawals, but that the matter is left in each association to the discretion of the board of directors.

Under the 1916 law, one half of receipts must be paid to withdrawals.

This law did not meet present day conditions. The Supreme Court of Louisiana has already explained how "receipts" had to be whittled to face the obligations of building and loan associations. See *Orlando v. Reliance Homestead Association, 174 La. 980; Harding Realty Co. v. Blanchard, 170 La. 430.*

While providing strictly for withdrawals, and having in mind the needs of associations for taxes, repairs,

operating expenses, creditor obligations, etc., especially in times of stress, the Legislature thought it unwise to prescribe an inflexible rule for the use of cash funds to pay withdrawals, and left the matter to the discretion of the directors.

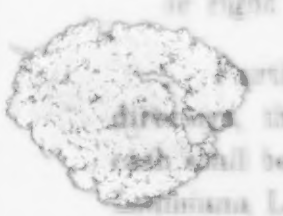
Building and loan associations in Louisiana are under the absolute control of the State Bank Examiner. The Directors, in reference to using the cash assets to pay withdrawals, as in every other matter of association management and policy, must comply with the orders or regulations of the State Banking Commissioner, or go out of business.

The statute provides that all withdrawals must be paid within one year, else the Commissioner of Banking is authorized to liquidate the Association. The Supreme Court of Louisiana, with its intimate knowledge of these Associations, whose rights, especially of late years, have frequently been before it, thought that this was a proper and reasonable regulation.

We quote an excerpt from the decision of the Supreme Court of Louisiana in the present case:

> "But it is contended that such power cannot be granted legally to a board of directors, composed of continuing members of an association, and having, therefore, a personal interest in conflict with that of the withdrawing members, in the matter of appropriating the receipts of the association to the payment of dividends rather than to the payment of applications for withdrawal. The Legislature evidently concluded that there was no great danger of an abuse of the authority which was given to the

boards of directors of building and loan associations. The interests of all of the shareholders, including, of course, the withdrawing shareholders, are protected from abuse of authority on the part of the board of directors, by the fact that the statute has placed all building and loan associations under the supervision and control of the state bank commissioner. We called attention to that in State ex rel. Italo-American Homestead Association. Section 64 of the act so provides, and requires every building and loan association to make semi-annual reports to the commissioner; and section 65 provides: 'Twice every year or oftener, if he deems it necessary, the Commissioner shall make an examination into the affairs of each such association'. And Section 67 imposes upon the commissioner the duty of seeing that the officers and directors of building and loan associations perform their duties faithfully; and the same section of the statute empowers the commissioner to enforce his orders in that respect, under penalty of liquidation of the association. Aside from these considerations, a withdrawing member of a building and loan association, as we have pointed out, may withdraw his application at any time, and have all the advantages enjoyed by the other continuing members. Our conclusion is that the plaintiff in this case has no cause or right of action." (R. 287, p. 48).



...further, in thus leaving to the discretion of the directors the question of how much of the association's ... shall be used to pay applications for withdrawals, the ... Legislature is merely going back to the original ... of the building and loan law of the State.

Act 120 of 1902, the first law on the subject of withdrawals in Louisiana, provided that the moneys to be used to pay withdrawals should never exceed one half of the

receipts. See *Section 7 of Act 120 of 1902* (Appendix, p. 8).

But there was no minimum to be applied to the purpose of paying withdrawals. In other words, the only provision was that there should be no attribution of more than fifty per cent, and below that maximum the Directors could exercise their entire discretion in the matter.

Act 280 of 1916 fixed one half of the net receipts as the amount to be used for withdrawals. (See Appendix, p. 8).

Now the statute of 1932 in effect goes back to the original rule, since the matter is left to the discretion of the directors. No one has ever suggested that the original Act of 1902 was unconstitutional or unreasonable in any way.

But the appellants declare that this discretion of the Directors is unregulated, and that the new provision means that no withdrawals will ever be paid.

Withdrawals must be paid under the law. Under Section 54 of the Statute, it is expected under normal conditions that such payments shall be made within sixty days from the date of application.

It is only where the Association is unable to pay applications in full, after a period of sixty days, that the application register is inaugurated.

Directors are not to be assumed to be the enemies of their shareholders, but are their representatives and agents,

who have no right to act except for the benefit of the Association and of its owners, the said shareholders. These directors are elected by the shareholders (Section 36), must be shareholders themselves (Section 37), must take an oath to discharge their duties conscientiously (Section 38), and in no event can be elected for a longer term than two years (Section 36). (See Appendix, pp. 9 and 10).

Finally, any fears that the appellants have as to the withholding of funds which should properly be applied to paying withdrawals are set at rest, as the Supreme Court of Louisiana said in the present case, by the complete control, not merely supervision, which the State Bank Commissioner has over these Associations in Louisiana. And finally, the Louisiana Statute as amended by *Act No. 44 of the Second Extraordinary Session of 1934* (see Appendix, p. 7), provides that an association which fails to pay any withdrawals for a period of one year, shall be subject to liquidation by the State Banking Department, so that all its assets may be turned into cash and delivered to its shareholders.

There remains to be noticed only the claim that Act 140 of 1932 does not in terms state that it is emergency legislation and that the operation of the new building and loan laws in Louisiana is not restricted by any time limitation stated in the Statute.

The Legislature of Louisiana had the power, under its sovereign and reserved grant of legislative authority, to legislate for the control of building and loan associations and of shareholder memberships in such associations.

It did so in 1932, as originally in the early enabling Act of 1888, and also, many years ago, in the general statutes of 1902,—without limitation as to time.

Congress and the Legislature, enjoying complete control over carriers, banks, utility companies, and insurance societies, are entitled to enact such reasonable laws as are intended to meet current conditions and to remain in force until repealed. The same principle naturally applies to the control of the Legislature over building and loan associations.

There is no necessity, in order that a regulatory statute should be a valid exercise of the police power, that it should be limited as to time. At a later date, still exercising its power of control, the Legislature may in the future make further changes in, or may entirely abolish, the rules which it adopted in 1932. To deny this is to deny that the Legislature has continuing police power and authority over these quasi-public institutions.

No one would suggest that State bank legislation must be limited as to time, or that Congress can only exert its power over interstate commerce in a statute which will in advance state the limit of its duration.

The general reserved police power of the State over matters remaining subject to its control, is, it is submitted, no less in extent or scope than the delegated and special powers which the States have turned over to the central government.

Since Congress can exercise without any limitation whatsoever its delegated police power, which it has ob-

tained from the States, it is fairly clear that the reserved police and sovereign power as to subjects which have not been transferred to the Congress, must be equally complete and absolute in the States, and cannot for its validity depend on whether or not the Legislature has determined in advance the term of such police power regulation and statutes.

We present this case on the basis of the right of the Legislature of Louisiana to control building and loan associations at all times, and we submit that the shareholder relationship enjoyed by the petitioners, even it should be regarded as contractual, could not thwart or frustrate the exercise by the State of its undoubted police power to control these quasi-public institutions.

Point 4.

A shareholder's right of withdrawal in a building and loan association is purely statutory, is always within the control of the Legislature, and may be altered by the Legislature in its discretion. It has none of the characteristics of a conventional agreement, or vested right.

No one can subscribe to shares in a building and loan association, except in accordance with the controlling statute.

Shares are issued by the building and loan association and acquired by the member to the extent only that the enabling statute permits this to be done.

The entire relationship, although consensual in form, is in substance wholly statutory.

The decisions of the Supreme Court of Louisiana have settled that the rights of the shareholders in these associations are entirely statutory, and that agreements, which go beyond the provisions of the statute, are absolutely null and void.

In *Conservative Homestead Association v. Dreyfous, 175 La. 404*, a shareholder claimed the right to set off his indebtedness to the association by the use of shares at par,—a privilege granted to the shareholder not only in the stock subscription, but also specifically set forth in the Act of Incorporation of the association. The Court held that the enabling statute did not confer any such privilege, that the shareholder could claim only such rights as were provided for by the statute, and that any provisions of the charter or of his subscription to the stock of the Association, which went beyond the Louisiana law were inoperative and null. This interpretation of the State law controlling these State institutions, as well as of the scope of the rights of a building and loan shareholder under the law of Louisiana, is, it is submitted, controlling on this Court. *Louisville Gas and Electric Co. v. Coleman, 277 U. S. 32, 36; Merchants' Bank v. Pennsylvania, 167 U. S. 461, 462.*

The Supreme Court of Louisiana said, in that case:

> "At the outset, we are impressed with the fact that a homestead building and loan association **cannot validly enter into a contract with one of its members that is in conflict with the statute** creating, regulating and defining the rights, powers and privileges of homestead associations. . . . "

People ex rel. Rodgers v. Coler (1901), 166 N. Y. 1:

"**The obligations and legal effect of a promise or engagement imported into a contract by force of a statute,** as in this case, whereby the contracting parties agree to obey or execute some law, **depend entirely upon the validity of the law.** * * * **Such a promise or agreement cannot survive the statute upon which it is founded, but must fall with it, since it can have no independent existence arising from the consent of the parties or the meeting of minds.**"

Publicker v. Pottash Bros. Building and Loan Association, (Pa.), 159 Atl. 58, decided March 5, 1932:

"If this were a case between two ordinary litigants, the compromise would be sustained, **but building associations are creatures of statute** and are in a class by themselves. The nature of the claim of the plaintiff did not change by reason of the fact that a compromise was effected. She did not lose her character as a withdrawing stockholder. **The officers of the association could not legally give her a preference,** nor could they advance her position as a withdrawing stockholder, so that she would precede in the distribution those who had made application before her. **She and they were equally bound by the law which was passed to govern the mutual rights of the shareholders.** She cannot by resort to a suit gain a preference which the law does not give her. The fact that the claimant has obtained a judgment ascertaining the amount of her claim does not alter the character of the claim."

Abie State Bank v. Weaver (1931), 282 U. S. 76:

"Notwithstanding the provisions of the Bank Guaranty Law, there is, properly speaking, no contract between the depositor and other banks. The Bank Guaranty Law provided for a fund to be

raised by assessments upon all the state banks, and, while this was regarded as an important safeguard for all depositors, **it was but a police regulation, the sanction of which lay in the constitutional power of the state and not in contract."**

The privilege of withdrawal does not exist except as the same may be conferred by the by-law or by the statute. *Fitzgerald v. State Mutual Building and Loan Association, 76 N. J. Eq. 137; Thirteenth Ward B. & L. Assn. v. Weissberg, 115 N. J. Equity 487.*

A statutory obligation is not a contract within the meaning of the Constitution. It is a measure of legislative policy, subject like all other measures of policy to any change the Legislature may see fit to make, either in the extent of the liability or in the means of its enforcement. *Louisiana v. New Orleans, 109 U. S. 285; Garrison v. City of New York, 21 Wall. 196; Crane v. Hahlo, 258 U. S. 142, 146.* This rule is particularly applicable to quasi-public institutions, like building and loan associations, banks, insurance companies, utility companies, etc.

When the petitioners acquired shares in the defendant association, they acquired the shares which were issued, and which could be issued, solely and only under the authority of the statute. Neither these shareholders nor the building associations could agree to alter the statutory authority under which alone these quasi-public institutions could issue these shares.

When the statute which furnished the origin of the rights of petitioners was amended, the petitioners' rights which depended wholly on the statute were necessarily

modified to conform to the new policy of the State as expressed in the present statute. This, within settled constitutional principles, involves no impairment of any contract; for what was altered was a statute, not a contract.

COMMENT ON PRINCIPAL CASES RELIED UPON BY OPPONENTS.

In their brief at page 11, opponents lay stress on the language of the Supreme Court of Louisiana in the case of *State ex rel. Orlando v. Reliance Homestead Association, 174 La. 980*, where language was used to the effect that the shareholder could not be deprived of the withdrawal rights granted to him by the applicable statute.

The quotation, as made by opponents at page 11 of their brief, is as follows:

> "By giving to shareholders the right to withdraw their shares and by prescribing the method by which funds are to be made available for the payment of their claims when their applications to withdraw are filed, the law maker gave them a privilege which cannot be denied them."

This point is completely answered by the Supreme Court of Louisiana, in its decision in the instant cases (R. 287, p. 47) as follows:

> "The Court meant that the privilege **could not be denied them** (the withdrawing shareholders) **by the Court,—not that it could not be denied them by an act of the Legislature.** The case was decided before the Act of 1932 came into effect, and the only question in the case, as stated in the opinion, was whether the association was required by Section 7 of Act of 1902 as amended by the Act of 1916, to

> apply one-half of the gross receipts, or only one-half of the net receipts, to the payment of withdrawals when they were in arrears sixty days. Hence the expression in the opinion, which the plaintiff here relies upon, is not at all appropriate to this case."

The plaintiffs claim that their rights were vested for the reason they had done all that was expected of them under the old building and loan act, and they quote *Coombs v. Getz, 285 U. S. 434; Ettor v. Tacoma, 228 U. S. 148; Pacific Mail S. S. Co. v. Joliffe, 69 U. S. 450,* and *Bedford v. Eastern Building and Loan Assn., 181 U. S. 227.*

Not one of these cases, except the *Bedford* case, involves a quasi-public institution. In addition the legislation, there condemned, would have deprived the claimants, improperly and unreasonably, of all remedy of recovery. Here there is no annulment of right, but only a change, as to order and amount, of the privilege of withdrawal, and the rights of the shareholder in the institution are at all times maintained and recognized.

The principal cases, on which opponents have apparently relied in their brief, are here commented upon in order to prevent any misapprehension as to what was held in those cases, although we submit that the cases thus cited by opponents have no application to the precise question now presented.

In the *Coombs* case, cited by opponents, the right of action was maintained and was held not to have lapsed by the repeal of the statute under consideration in that case for the reason that the claim as specifically stated by the Court was not statutory but quasi contractual.

In *Ettor v. Tacoma, 228 U. S. 148*, the right of abutting owners to compensation for damages arising from a street grading was held to survive the repeal of the statute which created the right, for the reason that otherwise the claimants would have had no recovery for the damages which they had suffered by the grading. In the present case, the shareholders are not deprived of any ownership of their stock, but a change in the remedy, i. e., the method and time of withdrawal, is all that is attempted by the Act of 1932. The decision in the cited *Tacoma* case especially provides that "If the changing or repealing statute leaves the parties a substantial remedy, the legislature does not exceed its authority". So that this decision is not in any way opposed to the issues presented by the present case.

The cases of *Coombs v. Getts* and *Ettor v. Tacoma* were cited, without success in this Court, in the more recent case of *Doty v. Love, No. 556*, October 1934 term, not yet officially reported, where it was claimed that a statute of Mississippi, providing for the reorganization of insolvent and closed banks, on the vote and consent of only three-fourths of the creditors with the approval of the Superintendent of Banks, was unconstitutional, since it effected, under certain circumstances, the release of the personal liability of the shareholders, previously available under the Mississippi law for the protection of depositors of the defunct bank. This Court held that all that the new statute did was to change the method of liquidation and that the new statute was constitutional. Although the decision of this Court was not in terms placed on that ground, the control of the State over the details of the liquidation of

this insolvent bank and the right of the State to change the method of liquidation, altering the pre-existing rights of the depositors and shareholders, constituted a plain exercise by the State of its inherent and paramount police power in banking matters affected with a public interest, transcending the constitutional protection and guarantees unsuccessfully urged by the non-assenting creditors.

In *Pacific Mail S. S. Co. v. Joliffe, 69 U. S. 450,* the pilot was permitted to recover for earned fees, although the statute authorizing the fees had been repealed, on the ground that the claim was based on a *quantum meruit,* and the Court said:

"It has become a vested right which stands independent of the statute",—an observation which cannot be applied to the right of withdrawal from a building and loan association, which is purely statutory and never an independent right. See discussion, under Point 4 of the present brief, to the effect that under the law of Louisiana, the rights of a shareholder in a building and loan association are purely and only statutory. *Conservative Homestead Association v. Dreyfous, 175 La. 404.*

In *Bedford v. Eastern Building and Loan Association, 181 U. S. 227,* the loan had been made in New York and the note although secured by mortgage in Tennessee was payable in New York. Suit was brought in the federal court in Tennessee to enforce the New York note and the collateral mortgage; and payment was resisted (1) because after the date of the New York contract a statute had been passed in Tennessee imposing certain requirements on building and loan associations as a condi-

tion of doing business in Tennessee; and (2) because the transaction was usurious according to the law of Tennessee.

This Court held that the contract was a valid New York contract, depending for its validity on the law of New York, and therefore, could not be affected or impaired by the law of Tennessee.

This New York Building and Loan Association was obviously not subject to regulation by any State except that of its creation, and its contracts and member relationships constituted property in that State and not in Tennessee.

The situation would have been different if the Building and Loan Association had settled in Tennessee to do business. But, so far as the case shows, the Building and Loan Association was no longer active in Tennessee and was merely trying to collect, in the federal court in that State, on a New York contract made with a Tennessean and valid when made.

In *Washington ex rel. Seattle Title Trust Co. v. Rolerge, 278 U. S. 116*, and in *Eubank v. Richard, 226 U. S. 137*, this Court holds that the enforcement of zoning statutes cannot be left to the unregulated and uncontrolled vote of a certain number of neighboring property owners. A situation which has no resemblance to the present case, for the reason that the management of a quasi-public corporation by its own directors under the strict control of the State presents no question involving any unregulated or outside control of a matter in which the State is inter-

ested. The 1932 Louisiana Statute in vesting complete control in the State Banking Department contains every safeguard needed for the protection of shareholders' rights.

Conclusion.

It is submitted that Act 140 of 1932 of the Legislature of Louisiana is valid; that the appeals herein should be dismissed; and that the judgments of the Supreme Court of Louisiana in these related cases should be affirmed.

Respectfully submitted,

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APPENDIX.

TABLE 1.

Summary Table of Number of Associations, Total Membership, and Total Assets of Building and Loan Associations, by States, 1933.

	States	No. of Assns.	Total Membership	Total Assets
1.	New Jersey	1,532	970,000	$1,050,000,000
2.	Pennsylvania	2,908	884,065	957,791,288
3.	Ohio	737	1,968,129	895,028,774
4.	Massachusetts	227	436,920	502,873,869
5.	Illinois	889	782,300	394,648,000
6.	New York	293	481,928	394,643,465
7.	California	182	350,000	359,894,896
8.	Indiana	380	341,700	246,333,779
9.	Wisconsin	184	238,238	245,291,106
10.	Maryland	1,000	283,000	185,000,000
11.	Missouri	233	207,950	169,255,761
12.	Louisiana	99	166,241	143,656,771
13.	Michigan	65	185,267	142,693,028
14.	Nebraska	83	176,500	111,876,652
15.	Kentucky	164	170,300	110,937,465
16.	Kansas	150	155,152	106,960,685
17.	Texas	139	137,700	100,393,588
18.	Oklahoma	90	129,339	99,238,441
19.	Dis. of Columbia	28	96,785	90,533,000
20.	North Carolina	209	74,182	68,439,937
21.	Washington	66	200,000	61,510,158
22.	Virginia	89	59,100	53,652,977
23.	Iowa	74	60,072	41,789,377
24.	Minnesota	75	96,179	39,038,245
25.	Colorado	52	50,000	35,340,471
26.	Rhode Island	8	47,898	33,691,232
27.	West Virginia	60	50,200	33,612,941
28.	Arkansas	55	30,213	25,794,298

TABLE 1—(Continued).

Summary Table of Number of Associations, Total Membership, and Total Assets of Building and Loan Associations, by States, 1933.

	States	No. of Assns.	Total Membership	Total Assets
29.	Connecticut	44	31,534	$ 25,607,678
30.	Maine	36	25,930	23,967,428
31.	Alabama	39	33,480	23,843,533
32.	Utah	21	34,000	23,029,669
33.	South Carolina	98	18,000	20,000,000
34.	Oregon	22	31,400	18,228,564
35.	Tennessee	42	25,640	18,993,047
36.	Delaware	43	19,430	15,257,369
37.	Montana	27	25,800	15,026,454
38.	New Hampshire	29	16,152	13,761,730
39.	Florida	59	10,370	13,129,227
40.	North Dakota	22	22,251	12,054,641
41.	Mississippi	44	6,274	10,943,600
42.	Wyoming	8	14,850	7,889,189
43.	Georgia	40	18,443	6,891,548
44.	Idaho	14	9,550	6,272,313
45.	South Dakota	20	9,650	5,844,910
46.	Vermont	14	5,600	5,418,676
47.	Hawaii	11	28,012	5,288,989
48.	New Mexico	16	4,500	4,316,562
49.	Nevada	5	2,281	1,246,345
50.	Arizona	2	1,600	600,000
	TOTAL	10,727	9,224,105	$6,977,531,676

TABLE II.

Mortgage Investments of Building and Loan Associations—1932-1933.

States	Mortgage Loans Outstanding 1932	Mortgage Loans Outstanding 1933
Alabama	$ 18,206,657	$ 14,963,727
Arizona	3,022,300	420,000
Arkansas	26,287,570	17,495,436
California	295,851,951	232,428,452
Colorado	25,758,506	24,906,062
Connecticut	24,504,750	22,642,147
Delaware	13,737,035	12,564,895
Dist. of Columbia	82,385,000	83,311,000
Florida	7,244,685	6,006,642
Georgia	5,983,523	5,728,427
Illinois	379,923,900	310,074,000
Idaho	4,355,827	4,142,535
Indiana	227,470,000	196,713,421
Iowa	39,037,376	34,334,500
Kansas	89,052,540	76,178,598
Kentucky	110,196,706	100,352,563
Louisiana	124,379,006	102,856,845
Maine	22,429,789	21,063,337
Massachusetts	460,794,740	406,400,260
Michigan	124,161,048	101,623,146
Minnesota	33,219,703	30,827,410
Mississippi	12,743,690	8,351,246
Missouri	158,052,991	130,264,177
Montana	17,429,971	12,346,115
Nebraska	102,832,373	84,454,842
Nevada	1,077,384	872,912
New Hampshire	13,305,751	12,806,264
New Jersey	926,101,801	900,000,000
New Mexico	3,899,377	3,426,739
New York	363,867,626	332,962,466

TABLE II—(Continued).

Mortgage Investments of Building and Loan Associations—1932-1933.

States	Mortgage Loans Outstanding 1932	Mortgage Loans Outstanding 1933
North Carolina	$ 65,328,801	$ 56,285,134
North Dakota	10,815,278	9,375,139
Ohio	951,405,870	749,559,478
Oklahoma	93,666,474	73,493,316
Oregon	15,725,139	13,968,996
Pennsylvania	825,296,120	714,707,770
Rhode Island	33,228,800	28,015,813
South Dakota	5,445,806	4,613,055
Tennessee	14,668,000	13,581,171
Texas	90,410,170	76,960,311
Utah	30,063,715	14,694,201
Vermont	4,931,543	4,722,729
Virginia	48,692,147	44,018,097
Washington	48,984,258	42,792,203
West Virginia	27,430,879	24,304,732
Wisconsin	218,846,585	186,076,388
Wyoming	8,252,261	4,849,641
Other States	179,800,000	161,950,000
Hawaii	4,419,996	4,213,862
TOTALS	$6,394,725,418	$5,518,699,600

Act 151 of 1888:

"No. 151 AN ACT

Defining and declaring homestead, or building associations, societies and companies, corporations for the promotion of public utility and advantage.

Whereas, homestead and building associations, societies and companies, as now established in this State, are corporations promoting works of great public utility and advantage.

Section 1. Be it enacted by the General Assembly of the State of Louisiana, That the terms 'public utility and advantage', in the Revised Statutes, section (683) six hundred and eighty-three, and in all laws amendatory thereof, be held to include in their meaning the objects and purposes of homestead, or building associations, societies and companies as now established in this State."

Section 81, Act 140 of 1932:

"Section 81. The provisions of the following laws and statutes of the State and Legislature of Louisiana are expressly superseded by the corresponding and relevant provisions of the present statute:

'Act 120 of 1902, Act 280 of 1916, Act 292 of 1910, Act 244 of 1912, Act 159 of 1910, Act 214 of 1910, Act 278 of 1928, Act 122 of 1920, Act 281 of 1928, Act 185 of 1924, Act 128 of 1926, Act 126 of 1926, Act 277 of 1928, Act 282 of 1928. This Statute shall further repeal all laws of this State not enumerated in the present Section and on the same subject matter, and also all laws, not enumerated in the present Section, which may in any manner or to any extent whatsoever be inconsistent with the present statute. **The provisions of Act 151 of**

1888, of Louisiana, recognizing homestead or building and loan associations, societies and companies, as established in the State of Louisiana, as quasi-public corporations, promoting works of great public utility and advantage and furthering the public welfare, and the provisions of Act 340 of 1926, and of Act 180 of 1910, and of Act 215 of 1912, **are neither superseded nor repealed by this statute, but are, on the contrary, declared to be in full force and effect'."**

Constitution of Louisiana, 1921, Article VI, Section 18:

"At the expiration of the term of office of the Examiner of State Banks, there shall be appointed in lieu thereof by the Governor, by and with the advice and consent of the Senate, a State Bank Commissioner who shall also be Supervisor of Homestead and Building and Loan Associations of the State. His term of office shall be four years. The Legislature shall fix his compensation, and define his powers and duties, which until otherwise provided by law, shall be the same as now vested in the Examiner of State Banks."

Act 140 of 1932, Section 80:

"Section 80. Except as otherwise provided in this Statute, all of the provisions of the present Statute shall be applicable to every existing corporation, association or society, heretofore formed under the laws of the State of Louisiana for a purpose or for purposes for which an association, corporation or society might be formed under the present Statute; provided that, **in the interpretation and application of this Statute, particularly in respect** of building

and loan associations heretofore organized and **the rights of the members thereof,** the following considerations and principles shall be treated and considered as fundamental; (a) the essentially mutual and co-operative character of building and loan associations and **the fact that they have always been considered as quasi-public institutions, subject to complete State control, supervision and regulation;** (b) **the necessity that changes in general conditions should be reflected in improved legislation,** and that, in the public interest, the Legislature should have the power to treat and settle, in a manner uniformly applicable to all associations engaged in said industry, **all the new problems and conditions constantly arising in building and loan matters;** (c) **the paramount public interest and concern in the promotion of thrift and in building of homes,—matters vital to the public welfare, profoundly affected with a basic public interest and, therefore, at all times subject to the control of the Legislature, in the exercise of the police power,** to protect the health, morals and safety of the people."

Section 67 of Act 140 of 1932, as amended by *Act 44 of the Second Extraordinary Session of the Legislature of Louisiana for 1934, page 156:*

"Section 67—Whenever it shall appear that any building and loan association, society, or company has violated its charter; or that its officers or directors are violating, or have violated, any law regulating the operation of such institutions; **or that such institution has been unable for any period of twelve months to meet in full the demands made upon it for withdrawals; or has been unable for a like period to earn reasonable profits;** or whenever the State Bank Commissioner and Supervisor

of Homestead and Building and Loan Associations shall have reason to conclude that any such association, society, or company is in an unsound or unsafe condition to transact the business for which it was organized, or that it is unsafe, inexpedient or hazardous for said institution to continue its business, the State Bank Commissioner and Supervisor of Homestead and Building and Loan Associations may and is hereby authorized to forthwith close such institution and take possession of its books, property and affairs and retain such possession until final liquidation or other disposition of its affairs as hereinafter provided for. . . ."

Section 7, Act 120 of 1902:

"That a member may withdraw his unpledged shares at any time by giving written notice of such intention as provided for in the act of incorporation or by-laws, and shall then be entitled to receive the amount paid in by him, and such proportion of the profits as the act of incorporation or by-laws may prescribe, less all fines, charges and losses accrued, or contingent, to the time of the notice of withdrawal, as the board of directors may determine, with no interest or profits from the time of such notice; but at no time shall more than one-half of the monthly receipts be applicable to the demands of the withdrawing members without the consent of the directors".

Section 7, Act 280 of 1916:

"That a member may withdraw his shares or credits thereon at any time by giving written notice of such intention and shall then be entitled to receive the amount paid in by him, and such proportion of

the profits as the act of incorporation or by-laws may prescribe, less all fines, charges, expenses and losses accrued or contingent to the time of notice of withdrawal, as the board of directors may determine.

"Each association shall keep a register of notices of withdrawal in the order in which they are filed, giving dates of notices and amounts to be withdrawn, and shall pay the same in the order in which such notices of intention to withdraw were filed. Whenever the proportion of receipts ordinarily made applicable to the demands of withdrawing members by resolution of the board of directors is not sufficient to pay all such demands within sixty days from date of notice, one-half of its receipts shall thereafter be applied to the liquidation of the claims of withdrawing members until all deferred claims are paid.

"Any association may permit a member to withdraw part of the accumulation to his credit without thereby reducing the number of shares held by him."

Section 36, Act 140 of 1932:

"Subject to such limitations, restrictions or reservations as may be provided in the articles of incorporation, the by-laws or the present statute, all the corporate powers shall be vested in, and the business and affairs of the association shall be managed by, a board of directors. The directors shall hold office for one year or until their successors are chosen and have qualified; but no director shall be elected for a longer term than two years at a time but may be re-elected from time to time."

Section 37, Act 140 of 1932:

"No person shall be eligible as director of an association unless he is a shareholder, in his own right, owning, or who has bona fide subscribed to, shares of said association of the par value of at least five hundred dollars. Every director who shall sell or hypothecate all shares owned by him, or so much thereof that he shall cease to be the owner, or bona fide subscriber, in his own right, free from encumbrances, of the amount of such shares aforesaid, may be removed from the office of director; provided, however, that any executor, administrator, tutor or trustee, holding shares of an association of the value of at least one thousand dollars in his or her respective capacity, shall be eligible as director thereof".

Section 38, Act 140 of 1932:

"All directors of building and loan associations shall, within sixty days after the date of their election and in every case before assuming the duties of their office, take oath to properly and conscientiously discharge their duties as directors, which oaths shall be promptly filed with the State Banking Department. Said oaths shall be in writing and shall be duly signed, and must be renewed as to each director upon the occasion of each re-election to the board. The State Bank Commissioner and Supervisor of Homestead and Building and Loan Associations shall be authorized to suspend any director who has failed to comply with the present requirement, and no suspended director can be reinstated except for good cause shown, after taking the said oath as aforesaid. And any director who without excuse duly accepted by the members of the board present at such meetings, and spread upon the min-

utes of such meetings, fails to attend three consecutive meetings of the board of directors of any homestead and building and loan association may be deprived of membership on said board, which, pending a re-election by the shareholders, cannot be restored except for good cause shown."

Summary of Statutes Affecting Withdrawals in Building and Loan Associations from Numerous States, Adopted Since 1930.

ALABAMA: Act of 1927, pages 431-432—1928 Code, Sec. 7097, provided that withdrawal should be in accordance with the by-laws of the association.

New Code P. L. 1931, 1932 amendment of the Code. Pages 232-233, Sec. 7111 (33) the legislature for the first time, regulated the payment of withdrawals, providing if funds insufficient to pay all, they must be paid in the order of filing notices, but the association would not be required to use more than one-half of net monthly receipts, no withdrawal payment to any member to exceed $1,000 in each thirty days ahead of other applications and that the board of directors might pay from said half of receipts, withdrawals not exceeding $50 to any one member at any one time, or not exceeding $100 to any one member within thirty days, regardless of the order of the application.

Act No. 119, October 22nd, 1932, provides that any building and loan association not able to pay all withdrawing shareholders, may through its board of directors, with the consent of the Commissioner of Building and Loan Associations, in lieu of paying withdrawals, distribute its net

income, or any other funds which it may have, subject to distribution, ratably among all its investing shareholders.

CALIFORNIA: G. L. 1931, Act 986, p. 457. New Code—Notice may be revoked or waived, if withdrawal claims exceed 3% of all shares and investment certificates, association shall be "on notice," if claims exceed 15%, association shall be on "pro rata" basis, if claims exceed 10%, directors may put association on pro rata basis (6.01) payment of withdrawals subject to claims of creditors, expenses, etc.; if association on notice payments in order of maturity of notices except $50 per person per month may be paid with or without notice; if on a pro rata basis or on notice, dividends and new investments prohibited; if on a pro rata basis quarterly pro rata payment of all withdrawals; (6.02) association not on notice or on pro rata basis may pay withdrawals without notice (6.03).

P. 1933, C. 4, amends Sec. 6.02 (pertaining to withdrawals) of 1931 Code.

COLORADO: P. L. 1933, Chap. 47, p. 284, Article V, Sec. 5, if funds applicable to withdrawals are insufficient to pay all, depending upon the desire of the board of directors, shall be paid either in full, in the order of filing notices, or on a pro rata basis, if the former method is used, no withdrawal by one shareholder shall exceed $1,000 in thirty days ahead of other applications, and the board may pay out of the funds applicable to withdrawals, not exceeding $50 to one shareholder within thirty days, regardless of the order of application. If the pro rata method

is used, accounts not exceeding $25 may be paid in full. It provides that *the withdrawing shareholder shall not become a creditor*, that pending payment of withdrawal shares on the withdrawal list shall only be entitled to half the dividends currently declared on such shares.

Sec. 8, *all stock shares or certificates or instruments issued by associations prior to the passage of the Code*, except permanent, or non-withdrawable stock, *shall be subject to all the rights and all the liabilities of this Article concerning withdrawals and that the holders shall be treated as shareholders.*

FLORIDA: P. L. 1931, Chap. 15606 (No. 5), page 1050, one-half the cash received from collection of share or stock dues, cash payments applied directly in reduction of mortgage or other loans, the net income from the lease or rental of assets, the cash derived from the sale of assets * * * shall be distributed quarterly when sufficient funds have accumulated, to members whose notices of withdrawal have been on file ten days previous to such distribution, on a pro rata basis of not less than 1% of the original amount to be paid to each such withdrawing member, except that any member whose payment other than the last payment shall amount to less than one dollar, may receive a distribution of the cash so set aside when the accumulated percentages equal or exceed one dollar in amount, if doubtful assets exceed 20% of total assets, association shall quarterly distribute net cash receipts to all members on the same percentage basis as if each member had filed a notice of withdrawal; members who apply for withdrawal, shall receive no dividends after filing notice.

P. L. 1933, Chap. 15908 (No. 51), page 111, further amends the 1931 statute in various respects concerning the payment of withdrawals and also provides (Sec. 10), *that members shall be deemed stockholders and not creditors, regardless of whether or not their notices of withdrawal have been filed or matured;* binds all members on re-organization as to all matters including reduction of liability, limitation on withdrawals on a majority vote of all shareholders whose *"rights in or against the association shall be deemed modified accordingly."*

ILLINOIS: Section 13 of the Building, Loan and Homestead Associations Act of 1919, was amended, April 28, 1932, so as to provide that, under certain conditions, the existing rights of withdrawing shareholders may be changed and affected by putting the Association on a pro rata basis. This new provision in respect of withdrawals made a fundamental change in the preexisting rights of shareholders.

Section 24 of said Act of 1919 of Illinois was also amended by providing that shares of an Association at their withdrawal value may be accepted in full or part payment of real estate or other assets owned by the Association.

IOWA: 1933, C. 165. Articles of incorporation, by laws or resolution of board may provide order in which withdrawals shall be paid and when dividends shall cease on shares on which withdrawal demands have been made and what portion of the association's funds or receipts shall be used for payment of withdrawals and matured shares.

KENTUCKY: 1934, C. 18. Withdraw thirty days' notice. After thirty days apply one-half net weekly receipts to payment in numerical order. *Shareholders filing application for withdrawal shall remain shareholders until paid and shall not become creditors.* Association may pay applicant $500 in order, then renumbered and placed at end of list and in like manner until paid. May pay members holding investment of less than $100 in dire distress out of turn.

MASSACHUSETTS: G. L. 1932, C. 170, Sec. 16, p. 2240. Withdrawals on thirty days notice; not more than one-half funds in treasury applicable without consent of directors; paid in order of notice.

L. 1932, C. 45. Established the Co-Operative Central Bank, a reserve institution for building and loan associations, to provide mutual credit for the payment of maturities and withdrawals, compelling all associations to become members, and aid it financially. (Held constitutional—in Re Opinion of the Justices, 181 N. E. 833, 836).

1933, C. 144, Sec. 17, p. 178—Shareholder, on thirty days notice, may withdraw unmatured or paid up shares * * * withdrawals paid in order of notices * * * directors may order that not more than one-half of cash on hand, in banks and one-half of funds received until order is rescinded, be applicable to demands * * * whenever there is unusual demand; board with approval of Commissioner or he, in his discretion may order that the right of withdrawing or maturing shareholder be limited to not in excess of 20% of the value of said shares or $400 at any one time; sums * * * paid in order of notice and in

rotation * * * meantime no dividends to be paid to matured or paid up shares on which notice has been filed.

Sec. 21—When no payment has been made on withdrawal for six months all receipts, after payment of expenses * * * shall be applied to withdrawals * * * commissioner shall direct the method of disbursing.

1934, C. 73, p. 61—Sets up in the Co-operative Central Bank, a fund for the mutual insurance of building and loan shares against loss, all associations being compelled to contribute to the fund. (Held constitutional, *Lowell Co-Operative Bank v. Co-Operative Central Bank, 191 N. E. 921).*

MICHIGAN: L. 1931, Act 135—withdrawals on thirty days notice; not more than one-half of funds received in any one month shall be applicable to payment of withdrawals unless ordered by board; withdrawals paid in order notice is filed.

L. 1932, Act 20, p. 35, Sec. 6. Withdrawal on thirty days notice; one-half monthly receipts applicable to payment in order notices are filed. Certificate to be presented within ten days after notice, otherwise waived; if unpaid withdrawals exceed 5% of unpledged stock liabilities, funds available each month for payment upon withdrawal shall be paid to withdrawing shareholders pro rata instead of in the order of the filing of notices of withdrawal; at discretion of directors * * * to meet necessities of its shareholders, may pay to shareholders without application for withdrawal not in excess of $100 * * * in any one month.

L. 1933, Act 120, p. 164, further amends Sec. 6 by adding provision that with approval, board may provide that all funds available be apportioned and paid pro rata without regard to notices.

L. 1933, extra session, Act 14, p. 40 further amends Sec. 6, as to payment of withdrawals. After thirty days paid in part or in full; apply not more than ¼ net receipts unless a greater proportion is ordered by board; payment in numerical order; if application for more than $1,000, $1,000 paid when reached, application renumbered and placed at end of list and when reached again, paid like amount, renumbered and replaced at the end; shareholder not paid more than 50% of total holdings except when below $100 application paid in full when reached; not more than one application to withdraw from one member at one time. *Shareholders filing withdrawals remain shareholders until paid and shall not become creditors;* present certificate for payment within ten days after notice or right to withdraw waived. When aggregate withdrawals exceed 5% of unpledged stock liabilities, board, with approval, may pay sums available for withdrawal pro rata instead of in order of applications; to meet necessities of shareholders, board may pay to shareholders without application on file, $100 in any one month but such payments shall not be charged against said ¼ of net receipts; with approval board may provide funds available, be apportioned and paid pro rata to holders of shares not pledged for mortgage loans, without regard to application; available sums distributed at least twice a year. (Approved Jan. 2, 1934).

NEVADA: L. 1931, C. 51; New Code—Section 12 prohibits the association without the written consent of the State Bank Examiner from applying in one month to the payment of withdrawals and maturities more than one-half of the monthly receipts during the preceding calendar month; withdrawals must be paid in the order of their filing.

1933, C. 68. At no time without consent of examiner shall association apply in any one month to payment of withdrawals or maturities more than one-half of its receipts during month. Withdrawals paid in order of filing and no loans or investments made except with permission when withdrawal request on file for thirty days. Whenever payments are inexpedient, money available may be pro-rated irrespective of order of filing.

NEW JERSEY: P. L. 1932, C. 102, Sec. 52—see also C. 57, amending Sec. 23, permitting merger agreement to bar withdrawals and C. 160, permitting segregation of assets, scaling of shares and reduction of withdrawal value. Has been applied with approval of Commissioner of Banking and Insurance to shares for which applications for withdrawal had been made.

P. L. 1935, C. 59, Sec. 52. Maturities paid in order due out of ⅓ net monthly receipts; withdrawals paid in order notices filed out of ⅓ net monthly receipts; but if insufficient, withdrawals paid on rotary basis in installments of $50; suits for matured shares and withdrawals barred if funds disbursed as required; board may make additional funds available for matured shares and withdrawals but not more than ⅓ net receipts and borrowed

money shall not be used for withdrawals while maturities unpaid.

NEW YORK: L. 1933, C. 325—dividends on shares withdrawn until paid at half rate paid on unwithdrawn shares of same class; not more than one half receipts (not borrowed money) to pay matured shares and withdrawals without consent of directors (exception below); if one half receipts insufficient to pay all matured shares and withdrawals, receipts applied ¼ of receipts to pay matured shares, ¼ to pay withdrawals or directors or superintendent of banks may direct all withdrawals paid in proportionate installments, or directors may limit withdrawal payments to $100 per month and if proportional payment less than $25 such withdrawing member may withdraw not more than $25 monthly; if no payment made on any matured shares or withdrawal in 6 months after demand, all net receipts applied on pro rata basis.

L. 1935, C. 301—permits associations to create agency for insurance of shares of participating associations against loss up to $7,500 to any one shareholder of any such association.

NORTH CAROLINA: L. 1933, C. 122, p. 93—Whenever * * * shareholder whose stock has matured or whose right to withdraw * * * has accrued has not been paid because of insufficiency of funds, Secretary shall under instruction from directors, create fund * * * known as "withdrawal or maturity fund" out of net monthly receipts. From time to time, as board * * * may direct, the secretary shall make an equitable and ratable distribution of funds in "withdrawal or maturity fund" to share-

holders whose right has accrued; no shareholder shall have right to demand any funds in excess of the amount equitably and ratably distributed except on approval of board and/or Insurance Commissioner.

NORTH DAKOTA: L. 1931, C. 94, New Code. Sec. 8 provides for withdrawals and *that withdrawing shareholders shall remain shareholders and are "in no way to be deemed creditors of the association."* Withdrawals are to be registered and paid in the order in which the notices are received out of at least one-half of the collections of the association; if withdrawals are unpaid for six months all collections less operating expenses and amounts due on matured shares must be used for payment.

1933, C. 78, p. 109. Amends 1931 statute, provides that board shall classify and make uniform payments as to each classification; eliminates procedure on application six months' old.

OHIO: Until 1934, the payment of withdrawals was regulated by the by-laws of each association. By S. 1., 3d, s. ses. Baldwin's 1934 Revision of Throckmorton's Annotated Code of Ohio, Sec. 9651, p. 1098, the state assumed such regulation. Association must pay application in 30 days or apply one-third of net cash receipts thereafter, excluding borrowed money and proceeds from sale of assets, to payment in numerical order; directors may pay any applicant not exceeding $100 in any month out of said one-third of receipts or other funds, in any order; if application for more than $1,000 not more than $1,000 shall be paid upon it in order when reached and shall then drop to

bottom of list and thus be paid on rotary basis; "*stockholders filing written applications for the repurchase* (withdrawal) *of their stock shall remain stockholders until paid, and shall not become creditors.*" (Declaratory, see *Frederick v. Mutual B. & Inv. Co. & Mut. B. & I. Co.*, brief *supra*).

OKLAHOMA: St. 1931, C. 46, Art. 8, Sec. 9800—Withdrawal on 30 days notice, not more than one-half funds in treasury applicable to payment without consent of directors. Sec. 9823, not more than one-half funds in treasury applicable to payment of matured shares without consent of directors. Sec. 9834, on maturity of notice "entitled to receive * * * withdrawal value *at once.*"

L. 1933, C. 54, amends Sec. 9800. If aggregate withdrawals exceed 5% of unpledged stock directors may, with approval of Bank Commissioner, direct funds available each month for payment of withdrawals "to withdrawing shareholders in proportion to their stockholdings to be withdrawn, instead of in the order of the filing of notices of withdrawal."

TENNESSEE: 1933, C. 19, Sec. 7—Thirty days' notice of withdrawal; not more than two-thirds of monthly receipts from dues in prior month applicable without consent of board; by-laws may provide for monthly payment of $100 and prefer such over applications for amounts exceeding $100 regardless of order.

TEXAS: L. 1932, C. 18, 42nd Legislature, 3d called Session, p. 41, amends Section 47. No member to withdraw in excess of $100 in any month without thirty days

written notice, except when idle funds on hand. Payments may be made when and as may be determined by directors and provided by-laws approved by Banking Commissioner; withdrawals in excess of $100 shall be paid in order of filing except as otherwise provided. Not more than one-half of net receipts in any month shall be used to pay withdrawals or maturities without the consent of Directors. Whenever net receipts so made applicable to pay withdrawals and maturities are not sufficient to pay all, directors may from time to time fix maximum amounts to be paid upon each application during any one month, provided that full payment may be made to any member whose entire interest in association amounts to not more than $100 and provided that directors may order all withdrawals paid on a pro rata basis, or, with the approval of the Commissioner, may provide that all funds available for withdrawal shall be apportioned and paid pro rata to all shareholders of the association irrespective of the order of filing. *"Membership in the association shall remain unimpaired so long as any accumulation remains to his (withdrawing member) credit."*

WASHINGTON: 1933, C. 183, p. 711—Shares not to be withdrawn for three months from *issue;* notice may be waived; after filing, member not entitled to receive dividends; member may cancel notice by writing filed with association; payment in order of filing as funds available; if unpaid six months association shall apply three-quarter receipts from principal of loans repaid and received from other investments, less operating expenses, etc.; allows payment of withdrawals, regardless of filing to extent of $25 each month with report to supervisor; association may

disregard notices and priority and pay on ratable basis and power in supervisor to order same.

WEST VIRGINIA: L. 1932, C. 58, p. 130—Sec. 12 * * * At no time shall more than one-half of the net monthly receipts be applicable to payment of matured shares and withdrawals * * * without the consent of directors. Sec. 13—*Withdrawing shareholder* shall be paid such part of withdrawal value of his shares as may be determined by board and *remain a shareholder until full payment to him be made.*

In addition to the above, substantial changes have been made, since 1930, in the laws of other States, particularly, Arizona (P. L. 1931, C. 40, p. 82); Connecticut (L. 1933, C. 210); Illinois, 1933, Smith & Hard Rev. Statutes, P. 786-7, Sec. 225; Maine (L. 1933, C. 30); Maryland (L. 1933, C. 47, p. 99); New Mexico (L. 1931, C. 147; L. 1933, C. 78); Missouri (1931, Revised St., C. 35, p. 141; L. 1933, p. 182, at 184, Sec. 5593); Montana (L. 1933, C. 11); Oregon (L. 1931, C. 373; L. 1933, C. 328); Pennsylvania (L. 1933, C. 108; L. 1933, C. 114); Rhode Island (L. 1931, C. 1796); South Carolina (L. 1933, Act 622, P. 1176); Utah (1933, C. 7); Virginia (L. 1932, C. 102, p. 94); Wisconsin (L. 1931, C. 70; L. 1933, C. 372).